



November 30, 2009

Mr. Mike Monasmith  
California Energy Commission  
1516 Ninth Street, MS-15  
Sacramento, CA 95814

RECEIVED

DEC 09 2009

CITY OF ANTIOCH  
COMMUNITY DEVELOPMENT

**DOCKET****08-AFC-03**

DATE NOV 30 2009

RECD. DEC 17 2009

**RE: Marsh Landing Generation Station Power Plant (AFC-08-3)**

Dear Mr. Monasmith:

This letter is in reference to the Marsh Landing Generation Station Power Plant as it has been amended by Mirant Marsh Landing, LLC (Case Docket Number 08-AFC-3). Mirant Marsh Landing, LLC is proposing a 760-megawatt generation facility at the Contra Costa Power Plant site, located at 3201 Wilbur Avenue in Contra Costa County. The City of Antioch has initiated pursuing annexation of the area. Therefore the City of Antioch is commenting on the CEC's letter dated on October 16, 2008 regarding the Application for Certification based on the anticipated annexation. Please see below for the four questions posed by the California Energy Commission (CEC), along with the City of Antioch's responses. In addition, as discussed below the City of Antioch is able to supply water to the project as an alternative, primary source of water that could be used for all project purposes in lieu of onsite groundwater.

The City of Antioch City Council unanimously adopted a resolution on July 28, 2009 in conceptual support of the proposed Marsh Landing Generation Station (MLGS). On September 8, 2009, the City Council adopted two additional resolutions; one authorizing an Annexation Agreement with Mirant, and the other adopting a resolution to enter into a Project Agreement with Mirant MLGS. These agreements have been subsequently executed by the City of Antioch, Mirant, and MLGS representatives.

**I. A discussion of those aspects of the proposed site and related facilities for which your agency would have jurisdiction but for the exclusive jurisdiction of the Energy Commission to certify sites and related facilities.**

The proposed project is located within the Eastern Waterfront Employment Focus Area of the General Plan, which identifies the land use as General Industrial. A power plant would be consistent with the General Industrial designation per the General Plan. The City is pursuing Heavy Industrial (M-2) as part of the pre-zoning through the LAFCO application process, which allows power plants subject to a use permit. If the City of Antioch had jurisdiction over the

proposed MLGS, the project would be required to obtain approval of a use permit, tentative subdivision map, and design review in a public hearing forum in front of the Planning Commission. Prior to the hearing, the City of Antioch would act as the lead agency and would conduct a CEQA level review producing an environmental disclosure document (EIR) similar to the Staff Assessment and other documents produced by the CEC. The environmental document would need to be deemed adequate, and the approval of the tentative subdivision map, use permit, and design review would have Conditions of Approval relating to the project. The Conditions of Approval would need to be complied with prior to building permit issuance or prior to the issuance of the certificate of occupancy. The City of Antioch has included prospective Conditions of Approval under Item Number III as requested by the CEC assuming the MLGS was subject to local authority and not the exclusive authority of the CEC, consistent with the laws, ordinances, regulations, and standards (LORS) of the City of Antioch. These prospective Conditions of Approval would likely be refined because the City of Antioch has not had the opportunity to review full sized civil and architectural plans relating to the site, and offsite work including the infrastructure that is proposed to be built.

Furthermore, elimination or relocation of the riverfront trail or linear park will require either a General Plan amendment or General Plan Consistency finding, which will have to be reviewed and approved by both the Planning Commission and the City Council. This General Plan amendment will be processed as part of the pre-zoning for the annexation area, which also includes the proposed MLGS. The City has been working constructively with the applicant regarding the City's proposal to install a new trail on Wilbur Avenue along the frontage of the parcel on which the MLGS is proposed. Although our conversations have been productive, the applicant has not agreed to install the trail or undertake other Wilbur Avenue improvements at this time.

**II. A determination of the completeness of the list in the AFC of the laws, ordinances regulations, or standards which your agency administers or enforces and would be applicable to the proposed site and related facilities but for the Energy Commission's exclusive jurisdiction.**

Please see below for the City of Antioch's list of City requirements pertaining to the City's LORS. Also included are a number of questions concerning the MLGS. The City understands that the CEC's authority takes precedence over most of the City requirements, ordinances, regulations, and standards identified in this section. This information is included as requested by the CEC to provide the CEC with the local context and local requirements that would otherwise be applicable to the MLGS:

- A. The CEC's Staff Issues Identification Report indicates that CEQA may be required for re-conductoring as an indirect project impact. This was never readdressed as part of the amendment. Is re-conductoring still an option even with the decreased plant size? If so, please provide clarification as to who the lead agency will be.
- B. The Issues Identification Report and Application for Certification states, the construction schedule has been estimated on a single shift, 10 hour day and a 50 hour work week with the majority of construction operations expecting to take place between 6:00 AM and 6:00 PM. However, longer workdays or work weeks

may be necessary to make up schedule delays or complete critical construction activities.

It should be noted that the City of Antioch's disturbing the peace ordinance places restrictions on both heavy construction equipment noise and construction activity noise. Equipment used for grading and earth moving, include diesel equipped machines used for that purpose, except pick-ups weighing one ton and or less and construction noise which includes, but is not limited to hammering, sawing, drilling, and other construction activities when the noise or sound can be heard beyond the perimeter of the parcel where such work is being done shall be performed during the hours specified below:

- a. On weekdays prior to 7:00 AM and after 6:00 PM;
- b. On weekdays within 300 feet of occupied dwelling space, prior to 8:00 AM and after 5:00 PM; and
- c. On weekends and holidays, prior to 9:00 AM and after 5:00 PM, irrespective of the distance from the occupied dwelling.

In order to provide flexibility in implementing the disturbing the peace ordinance stated above, the City Council adopted ordinance number 2032-C-S, which allows the City Manager or designee the authority to grant a waiver of the restrictions for construction related noise. This process requires an administrative waiver from the aforementioned requirements that can be requested for a certain project for a certain period of time. It should be noted Mirant has indicated they will be requesting construction times between the hours of 6:00 AM and 6:00 PM. Given the fact that the nearest residential units are over 1.25 miles from the site of the MLGS, such an administrative waiver would likely be appropriate. The City Manager or designee will review the request for a waiver from Mirant Marsh Landing, and any potential impacts of such a waiver.

- C. During the CEC process, the City of Antioch would like detailed full sized drawings of the project including the mobile trailers for the groundwater filtration and ion exchange and/or the permanent onsite treatment plant. The drawings shall include off-site improvements, a site plan for the power plant, civil drawings for all project related work, landscape plans, and elevations of all project structures for review and comment.
- D. The Executive Summary of the AFC states, "Stormwater runoff from the majority of the 27-acre MLGS site will continue to be discharged to the river via Outfall-001...Stormwater runoff from the majority of the site will be discharged to the San Joaquin River in accordance with NPDES Industrial Storm Water General Permit." In accordance with the California Regional Water Quality Control Boards for the San Francisco Bay Region and the Central Valley Region, who have revised Provision "C.3" in the NPDES permit governing discharges from the municipal storm drain systems of Contra Costa County and cities and towns within the County projects must shall now prepare a stormwater control plan to meet the requirements of the "C.3" Provision which requires site design minimization of impervious surfaces and where runoff must be captured and treated. Projects may also be required to detain or infiltrate runoff so peak flows

and durations match pre-project conditions. In addition, project applicants must prepare plans and execute agreements to ensure the stormwater treatment and flow-control facilities are maintained in perpetuity. It is the City's understanding that the MLGS will be required to meet all applicable C-3 requirements

- E. The City of Antioch would like the opportunity to comment on the design as it relates to the landscaping and elevations for all structures and facilities that will be located onsite, as well as those relating to water treatment.
- F. The City of Antioch would like a photometric plan for all onsite lighting to be submitted to ensure the applicant is complying with the lighting section of the Antioch Municipal Code.
- G. For any work that is to be done within the public right of way, the applicant shall get an encroachment permit from the City of Antioch.
- H. The AFC indicates that the Contra Costa County Sheriff's Department will be providing law enforcement services to the project. Contingent upon the annexation being approved by LAFCO, law enforcement services will be provided by the City of Antioch. This should be evaluated in the Staff Assessment.

The Contra Costa County Fire Protection District (CCCFPD) currently provides fire service to the property. The provision of services post-annexation should be analyzed as part of the Staff Assessment.

- I. The AFC did not include a discussion of the General Plan exterior noise level policies which are contained in Section 11.6.1 in the General Plan. The City of Antioch request that the CEC require a noise analysis to be performed to ensure that the project is meeting the General Plan and Zoning Code requirements for noise. If the project exceeds the General Plan or Zoning Code noise levels, then mitigations for noise attenuation should implemented as suggested in the analysis. The analysis should include the noise level at the front property line as well as any sensitive receptors in the area, such as the existing marinas that lie to the east of the proposed power plant.
- J. The AFC indicated that a single coast live oak tree occurs along the western edge of the CCPP site, within a row of eucalyptus trees. The coast live oak tree is considered an indigenous tree; therefore preservation is a priority. The AFC indicated that the tree will not be removed; however it did not indicate if there will be grading within the drip line. Please provide the City of Antioch with additional information regarding the aforementioned trees and the potential project impacts. In addition, if grading within the drip line is to occur then plans must be submitted to the City of Antioch Community Development Department that indicates how the grading within the drip line is to be carried out without critically harming the tree.
- K. The AFC states that due to existing infrastructure along the shoreline and the proximity to existing and proposed power plant facilities, dedication of a riverfront trail would pose a public safety and security risk. The City of Antioch General

Plan calls for the development of a riverfront trail or linear park, and any amendment of this Element would have to be reviewed and approved through an amendment to the General Plan by the Planning Commission and City Council. The City acknowledges that a shoreline trail appears to be impractical along the waterfront in proximity to the MLGS due to security and related concerns, and therefore a relocation of such a trail to the site's Wilbur Avenue frontage would likely be warranted. The City Council may be able to make a General Plan consistency determination if an alternative is proposed that meets the intent of the riverfront trail, such as locating the trail along Wilbur Avenue. Such a General Plan amendment or consistency determination is scheduled to be considered along with the pre-zoning for the subject annexation.

- L. The Wilbur Avenue frontage of the approximately 147 acre parcel (APN 051-031-014) on which the MLGS is proposed is currently unimproved. The applicant is responsible for constructing frontage improvements on the north side of Wilbur Avenue along the full street frontage of the aforementioned parcel. These frontage improvements shall consist of curb, gutter, sidewalk, street lighting, landscaping, irrigation, drainage, and fencing as well as a bike/pedestrian trail to accommodate the riverfront "Great California Delta Trail" as authorized by SB 1556. Utilities to serve the project shall be installed in conjunction with the frontage improvements. The exact details, such as the dimensions, cross sections, and landscaping types, of the frontage improvements would be determined by the City based on City standard requirements, as applicable. These frontage improvements would be completed by Mirant Marsh Landing concurrently with the initiation of operation of the project, either as a requirement placed on the MLGS by the CEC, or as a condition of approval on a Parcel Map to subdivide the approximately 20 acre site on which the MLGS is proposed from the larger 147 acre parcel. The City has discussed this proposal with the applicant, but the applicant has not agreed to undertake the Wilbur Avenue improvements at this time.
- M. Per the City of Antioch Zoning Code, an Administrative Use Permit is required for all construction trailers onsite and offsite.
- N. The AFC amendment indicates the total workforce will be reduced from 20 to 16 employees over a 24 hour period; however it appears that 15 parking spaces are still proposed which may exceed actual demand given the reduced employee count. In addition, the parking lot area shall meet the City Municipal Code standards for design and lighting.
- O. The City of Antioch recommends a temporary sign be placed on the front of the property with contact information for dust control and construction related noise.
- P. Will there be any signage, such as a monument sign proposed for the site?
- Q. The AFC did not discuss a trash enclosure for waste, which is required by the Antioch Municipal Code to be covered and plumbed to the sanitary sewer.
- R. The AFC discusses permanent closure and decommissioning of the MLGS plant

as required by the CEC; however does not discuss the local requirements of the City of Antioch's Municipal Code in relation to the closure. Section 5-1.202 (B) and (C) of the Antioch Municipal Code discuss buildings or structures in a state of disrepair and also discusses abandoned, unsecured or partially constructed buildings. Would the existing approximately 300 ft. tall stack be removed as part of the closure process? This should be evaluated and discussed as part of the Staff Assessment. (The City acknowledges the existing stack is not part of the MLGS. It is part of the CCPP, which is a separate facility.)

- S. The AFC amendment describes the plant will be utilizing groundwater from an aquifer underneath the site by utilizing two wells with one as backup. Will the project not be using the 1.8 million gallon storage tank that was proposed in the original AFC? In addition, the City of Antioch is able to supply water to the project as an alternative, primary source of water that could be utilized for all project purposes in lieu of onsite groundwater. The applicant's recent amendment to the AFC reflects project design changes that have reduced the project's water use to a maximum of 50 acre feet per year (AFY). The use of City of Antioch water as a primary source should be evaluated in the Staff Assessment as well as the provision of emergency water and sewer collection.

Mirant Delta, LLC also recently announced that it has conditionally agreed to shut down and retire the CCPP at around the same time the MLGS is scheduled to commence operations. The CCPP historically has used City water for various purposes and when the CPP is retired; its use of City water will be eliminated. This reduction in water may offset the MLGS's use of City water, assuming that the MLGS uses City water for all project purposes.

- III. A description of the nature and scope of the requirements which the applicant would need to meet in order to satisfy the substantive requirements of your agency but for the Energy Commission's exclusive jurisdiction, and identification of any analyses that the Energy Commission should perform in order to determine whether these substantive requirements can be met.**

Please see below for the City's conditions of approval based on the information that has been submitted to date through the CEC process. As with the previous section, the City understands that the CEC's authority takes precedence over many of the City requirements, ordinances, regulations, and standards identified in this section. The following conditions are included as requested by the CEC, to provide the CEC with the local context and requirements that would otherwise be applicable to the MLGS:

#### **STANDARD CONDITIONS**

1. That the project shall comply with the Antioch Municipal Code.
2. The applicant shall defend, indemnify and hold harmless the City in any action brought by a third party to challenge the land use entitlement.
3. The lots and improvements within the development shall comply with the City of Antioch

Municipal Code, unless a specific exception is granted thereto. All improvements shall conform to the California Building Code and the City of Antioch standards.

4. All required easements or rights-of-way for off-site improvements are to be obtained by the developer, at no cost to the City of Antioch. Advance permission shall be obtained from any property or easement holders for any work done within such property or easements.
5. No buildings or refuse enclosures shall be built on any easements.
6. The use of construction equipment shall be restricted as per the City of Antioch Municipal Code, or as approved in writing by the City Manager or designee.
7. Any work that would obstruct a City street shall not be conducted during peak commute hours, as approved by the City Engineer.
8. Standard dust control methods and designs shall be used to stabilize the dust generated by construction activities. The applicant shall post dust control signage with a contact number of the applicant, City staff, and the air quality control board.
9. The applicant shall obtain an encroachment permit for all work to be done within the public right-of-way.
10. The project shall be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and demolition debris recycling.
11. Building permits shall be secured for all proposed construction and demolition associated with this project, including any interior improvements not expressly evident on the plans submitted.
12. The developer shall pay all required fees at the time of building permit issuance, which include but are not limited to school impacts, sewer, fire facility, flood control, and sanitation fees.
13. Any Tentative Map approval is subject to the time lines established in the State of California Subdivision Map Act.
14. The building shall be clearly identified and an exterior lighting plan and photometric plan shall be submitted for Police Department and staff review and approval prior to the issuance of building permits. All lighting shall be installed on site in accordance with approved plans, and prior to the issuance of certificates of occupancy for this building.
15. That the design of this project shall be approved by the Planning Commission prior to the issuance of building permits for the facility. The Planning Commission shall also approve signage for the site prior to installation.
16. Asphalt paving shall have a minimum slope of 2%, concrete paving shall have a minimum slope of 0.75%, and asphalt paving for identified accessible parking stalls and

access routes may have a minimum slope of 1.5% and a maximum 2% slope, or as approved by the City Engineer.

17. All onsite curbs, gutters, sidewalks, drainage facilities, including open ditches shall be constructed of Portland cement concrete.
18. All parking lot dimensions and striping shall meet City standards.
19. All parking and access shall meet the ADA/Title 24 requirements as determined by the Chief Building Official using Checklist #1, Parking, CA Title 24, Sections 1129B.1 and 1130B. The location of such spaces shall provide safe and convenient access to the building as determined by the Chief Building Official.
20. Any cracked or broken sidewalks shall be replaced as required by the City Engineer.
21. The required 50 foot sight distance triangles shall be maintained at all intersections and that no object greater than 3 feet in height shall be placed in that triangle. All fencing, landscaping, signage, and slopes shall also not restrict sight distance.
22. That the City Engineer shall determine if it is necessary to engage in soils and structural engineers as well as any other professionals deemed necessary to review and verify the adequacy of the building plans submitted for this project. If deemed necessary by the City, this may be extended to include field inspections by such professional to verify implementation of the plans. Cost of these services shall be borne by the developer.
23. That there be a minimum of five (5) feet clear between any proposed trees and any concrete or asphalt paving within the City right-of-way. Trees closer than ten (10) feet to such concrete or asphalt paving shall use approved root guards.
24. A detailed landscaping and irrigation plans for the entire site shall be submitted to the City for review and approval. All landscaping and irrigation shall be installed in accordance with approved plans prior to the issuance of certificates of occupancy for this building.
25. All trees shall be a minimum 15-gallon size and that all shrubs be a minimum 5-gallon size, with the exception that trees along the frontage of the project site may be larger than 15 gallons, if determined necessary by staff.
26. The project shall comply with Commercial Property Maintenance Code Section 5-1.204, which entails the landscaped areas to be watered, weeded, pruned, fertilized, sprayed, and/or otherwise maintained as necessary. Plant materials shall be replaced as needed to maintain the landscaping in accordance with the approved plans.
27. The landscape shall show immediate results and be permanently maintained at an "A" level.
28. All elevations shown on the improvement and grading plans shall be on the USGS 1929 sea level datum.



29. A final grading plan for this development shall be approved by the City Engineer.
30. All sewage shall flow by gravity to the intersecting street sewer main or as approved by the City Engineer.
31. A reduced backflow prevention device shall be installed on all City water meter services.
32. Reduced pressure backflows, water meters, and double detector check backflows shall be enclosed within an easement granted to the City at no cost to the City.
33. A double detector check backflow shall be installed for fire line to the building and reduced pressure backflow shall be installed for domestic water and irrigation per the City's standards.
34. All storm water flows shall be collected on site and discharged into an approved public storm drain system.
35. Any drainage concerns expressed by Contra Costa County Flood Control District shall be complied with.
36. The developer shall provide adequate water pressure and volume to serve this development, as approved by the City Engineer. This will include a minimum residual pressure of 20 psi with all losses included at the highest point of water service and a minimum static pressure of 50 psi.
37. All slopes shall drain to approved drainage facilities, as approved by the City Engineer.
38. Street lighting shall be provided in accordance with the Antioch Municipal Code.
39. No illegal signs, pennants, banners, balloons, flags, or streamers are to be used on this site at any time. No signs shall be installed on this site without prior City approval.
40. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.
41. All requirements of the Contra Costa County Fire Protection District shall be met.
42. The developer shall provide an adequate and reliable water supply for fire protection, hydrants of the East Bay type, and appropriate access roadways with all-weather driving surfaces prior to any combustible construction, as required by the Contra Costa County Fire Protection District.
43. The applicant shall comply with all requirements and conditions, and pay all fees set forth by the Delta Diablo Sanitation District.
44. That water conservation measures, including low volume toilets and the use of drought tolerant landscaping be used.
45. That a masonry trash enclosure is required. The trash enclosure shall be covered by a roof structure to prevent runoff and that the interior shall be plumbed to the sanitary

sewer. The enclosure shall be subject to review and approval by staff and shall not be located within any easement areas.

46. The following requirements of the federally mandated NPDES program (National Pollutant DISCHARGE Elimination System) shall be complied with, or as required by the City Engineer:

- a. Prior to issuance of permits for building, site improvements, or landscaping, the applicant shall submit a permit application consistent with the applicant's approved Stormwater Control Plan, and include drawings and specifications necessary for construction of site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants. The permit application shall include a completed "Construction Plan C.3 Checklist" as described in the Stormwater C.3 Guidebook, and a detailed draft Stormwater BMP Operation and Maintenance Plan consistent with the general O&M plan included in the applicant's approved Stormwater Control Plan. Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are in Appendix F of the Stormwater C.3 Guidebook.
- b. The Stormwater Control Plan shall be certified by a registered civil engineer, and by a registered architect or landscape architect as applicable. Professionals certifying the Stormwater Control Plan shall be registered in the State of California and submit verification of training, on design of treatment measures for water quality, not more than three years prior to the signature date by an organization with stormwater treatment measure design expertise (e.g., a university, American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association), and verify understanding of groundwater protection principles applicable to the project site (see Provision C.3.i of Regional Water Quality Control Board Order R2 2003 0022).
- c. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for review and approval by the City, a final Stormwater BMP Operation and Maintenance Plan in accordance with City of Antioch guidelines. This O&M plan shall incorporate City comments on the draft O&M plan and any revisions resulting from changes made during construction.
- d. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership and/or long-term maintenance of stormwater treatment or hydrograph modification BMPs.
- e. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner.

- f. Collect and convey all stormwater entering, and/or originating from, the site to an adequate downstream drainage facility. Submit hydrologic and hydraulic calculations with the Improvement Plans to Engineering Services for review and approval.
- g. Prior to issuance of the grading permit, submit proof of filing of a Notice of Intent (NOI) by providing the unique Waste Discharge Identification Number (WDID#) issued from the Regional Water Quality Control Board.
- h. Submit a copy of the Stormwater Pollution Prevention Plan (SWPPP) for review and approval by the Engineering Department prior to issuance of a building and/or grading permit. The general contractor and all subcontractors and suppliers of materials and equipment shall implement these BMP's. Construction site cleanup and control of construction debris shall also be addressed in this program. Failure to comply with the approved construction BMP may result in the issuance of correction notices, citations, or a project stop work order.
- i. Install appropriate clean water devices at all private storm drain locations immediately prior to entering the public storm drain system. Implement Best Management Practices (BMP's) at all times.
- j. Install on all catch basins "No Dumping, Drains to Creek" decal buttons.
- k. If sidewalks are pressure washed, debris shall be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged into the storm drain. If any cleaning agent or degreaser is used, wash water shall be collected and discharged to the sanitary sewer, subject to the approval of the sanitary sewer District.
- l. Include erosion control/storm water quality measures in the final grading plan that specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydroseeding, gravel bags, and siltation fences and are subject to review and approval of the City Engineer. If no grading plan is required, necessary erosion control/storm water quality measures shall be shown on the site plan submitted for an on-site permit, subject to review and approval of the City Engineer. The applicant shall be responsible for ensuring that all contractors and subcontractors are aware of and implement such measures.
- m. Sweep or vacuum the parking lot(s) a minimum of once a month and prevent the accumulation of litter and debris on the site. Corners and hard to reach areas shall be swept manually.
- n. Ensure that the area surrounding the project such as the streets stay free and clear of construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way related to project construction. Areas that are exposed for extended periods shall be watered regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular basis. All trucks shall be covered.

- o. Clean all on-site storm drain facilities a minimum of twice a year, once immediately prior to October 15 and once in January. Additional cleaning may be required if found necessary by City Inspectors and/or City Engineer.

### **PROJECT SPECIFIC CONDITIONS**

- 47. The applicant shall construct the Wilbur Avenue frontage improvements the entire length of the 147 acre parcel (APN 051-031-014) on which the MLGS is proposed. The frontage improvements shall include curb, gutter, sidewalk, street lighting landscaping, irrigation, drainage, and fencing as well as a bike/pedestrian trail to accommodate the "Great California Delta Trail" as authorized by SB 1556. Utilities to serve the project shall be installed in conjunction with the frontage improvements. The exact details, such as the dimensions, cross sections, and landscaping types, of the frontage improvements shall be determined by the City based on City standard requirements, as applicable. These frontage improvements shall be completed by Mirant concurrently with the initiation of operation of the project.
- 48. Upon completion of the power plant a noise study shall be conducted to ensure the project is in compliance with the City of Antioch General Plan and Zoning Code as it relates to noise. If the project is not in compliance then noise attenuation mitigations shall be put in place as approved by the City.
- 49. The City of Antioch shall provide potable water and sewer collection services to the MLGS. If necessary, the City of Antioch shall provide water for all power plant operations as the primary water provider.
- 50. The infrastructure shall be set up for the City of Antioch to provide emergency and back up water if operation and/or emergency issues arise with the two proposed wells or with mobile water filtration and ion exchange trailers, or the permanent water treatment plant.
- 51. Section 5-1.202 (B) and (C) of the Antioch Municipal Code shall be complied with upon permanent closure of the Mirant Marsh Landing Generation Station power plant.
- 52. The parking lot design and lighting shall be compliant with the Antioch Municipal Code.

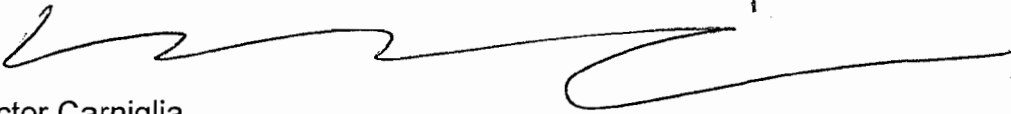
**IV. An analysis of whether there is a reasonable likelihood that the proposal will be able to comply with your agency's applicable substantive requirements.**

Upon reviewing the Application of Certification, application amendment, and the supporting documentation it appears the applicant will be able to comply with the City of Antioch's LORS and conditions of approval. The City of Antioch supports the project, concept, which was evident in the resolution that was passed by the City Council on July 28, 2009, as well as the Annexation and Project Agreements that were approved by the City Council on September 8, 2009 and subsequently executed by both the City and Mirant MLGS. The City will continue to work with Mirant Marsh Landing and the CEC on this project.

If you have any questions or comments, please contact me at (925) 779-7035 or

vcarniglia@ci.antioch.ca.us.

Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

Victor Carniglia  
Consultant for the City of Antioch

cc: Jim Jakel, City of Antioch  
Lynn Tracy Nerland, City of Antioch  
Tina Wehrmeister, City of Antioch  
✓Mindy Gentry, City of Antioch



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – [WWW.ENERGY.CA.GOV](http://WWW.ENERGY.CA.GOV)

**APPLICATION FOR CERTIFICATION  
FOR THE MARSH LANDING  
GENERATING STATION**

**Docket No. 08-AFC-3**

**PROOF OF SERVICE**  
(Revised 11/30/2009)

**APPLICANT**

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**INTERESTED AGENCIES**

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**INTERVENORS**

California Unions for Reliable  
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Adams Broadwell Joseph &  
Cardozo  
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### DECLARATION OF SERVICE

I, Mineka Foggie, declare that on December 17, 2009, I served and filed copies of the attached City of Antioch Comment Letter Dated November 30, 2009 re: Marsh Landing Generating Station (08-AFC-3). The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

**[<http://www.energy.ca.gov/sitingcases/marshlanding/index.html>]**. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

**(Check all that Apply)**

**For service to all other parties:**

  X   sent electronically to all email addresses on the Proof of Service list;

  X   by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

**AND**

For filing with the Energy Commission:

  X   sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

**OR**

       depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 08-AFC-3  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct.

Originally Signed By  
Mineka Foggie